

# EXHIBIT D

## LETTER TO LAMAR

# EXHIBIT D



Drew M. Smith, Esq.  
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May 9, 2025

***Via E-Mail Only***

Russel Primeaux – [russel.primeaux@keanmiller.com](mailto:russel.primeaux@keanmiller.com)  
Kean Miller LLP  
400 Convention Street, Suite 700  
Baton Rouge, Louisiana 70802

**Re: Unauthorized Use of Avelo, Inc. Trademarks**

Dear Mr. Primeaux,

This firm represents Avelo, Inc. (“Avelo”) in connection with trademark matters. We are writing you as the attorney of record for United States trademark Reg. Nos. 1874157, 2591231, and others owned by Lamar Media Corp. through its subsidiary The Lamar Company, LLC (collectively “Lamar”).

Since as early as April 2021, Avelo has used the designations AVELO and AVELO AIRLINES (collectively the “AVELO Marks”) as a house and trademark for airline transportation services in the United States, and in other countries. Avelo’s violet and secondary colors (teal, yellow, white), and livery design featuring the same, are unique to the industry and constitute inherently distinct trade dress. More information about our client and its airline services can be found on its website, [www.aveloair.com](http://www.aveloair.com).

Our client has spent significant resources developing and promoting its AVELO Marks and trade dress to distinguish its transportation services in the United States and abroad and has been widely featured in national publications such as The New York Times, The Wall Street Journal, Washington Post, as well as in countless travel blogs and websites.

As a result, Avelo enjoys considerable reputation and goodwill for its distinctive AVELO Marks and trade dress throughout the United States, making them strong marks entitled to a broad scope of protection.

Our client is the owner of trademarks in the United States and other countries, including U.S. Trademark Reg. Nos. 6513201, 6657107, 6680758, 6910702, and 7072450, among others. The certificates of registration for these federal trademarks are enclosed for your reference.

Russel Primeaux  
May 9, 2025  
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It has come to our attention that billboards owned by your client are being used by Proton Associates, LLC dba AvGeek Action Alliance and its founder Seth Miller (collectively “AvGeek”) on a marketing campaign which prominently features our client’s federally protected trademarks and trade dress, urging travelers to boycott Avelo’s air transportation services and soliciting financial donations to support its cause.

The billboard depicted below is displayed adjacent to the Tweed-New Haven Airport (HVN) in New Haven, Connecticut and we have reason to believe that AvGeek is preparing to use other Lamar billboards to display similar content at different locations:



AvGeek’s conduct constitutes commercial activity regulated by the Lanham Act as the billboard promotes the avelNo.com website that solicits and allows for the processing of online donations to support its cause, *i.e.*, “[y]our donations will support our efforts to amplify our messaging around various aviation-related social justice issues.” *See attached.* Likewise, AvGeek’s billboard display outside the New Haven airport, Avelo’s hub for east coast flights, is a deliberate attempt to interfere with the rendering of Avelo’s air transportation services to current and prospective consumers.

There are already documented instances of actual confusion wherein consumers have mistakenly believed that the billboard is sponsored or affiliated with Avelo, demonstrating that confusion is not only likely but inevitable.

In short, AvGeek’s conduct constitutes commercial activity that is damaging to Avelo, its trademarks, and its business, and which is not protected by the affirmative defense of nominative fair use.

As you likely know, a party who does not directly infringe another’s trademark may still be secondarily liable for the infringement under the Lanham Act if (1) their acts contribute to or induce direct infringement of a federal trademark by another and (2) they know, or have reason to believe, that infringement of another’s trademark has occurred and they continue to participate in the

Russel Primeaux  
May 9, 2025  
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infringing process. *Inwood Labs, Inc. v. Ives Labs, Inc.*, 456 U.S. 844, 854 (1982) (“[I]f a manufacturer or distributor intentionally induces another to infringe a trademark, or it continues to supply its product to one whom it knows or has reason to know is engaging in trademark infringement, the manufacturer or distributor is contributorily responsible for any harm done as a result of the deceit.”)

We presume that Lamar was unaware of our client’s trademark and trade dress rights when it permitted AvGeek to display the above-depicted content on Lamar’s billboard, and that it did not have advanced notice that AvGeek would engage in such unauthorized use and infringing conduct. We also trust that you appreciate our client’s not wanting the public to be confused, and in wanting to prevent damage to the goodwill associated with its distinctive AVELO Marks, logos, and trade dress.

To resolve this matter, we request that Lamar cease its participation in the infringement of Avelo’s trademarks and trade dress and immediately remove the above-depicted billboard in New Haven, Connecticut, as well as any other location which AvGeek has contracted with Lamar to display infringing material.

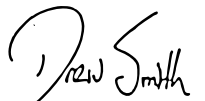
Once this has been accomplished, we request that Lamar Media Corp. and The Lamar Company, LLC provide signed written assurances that they have permanently ceased their association with Proton Associates, LLC and its founder, Seth Miller, and that they will not knowingly engage in or contribute to the infringement of Avelo’s trademarks and trade dress in the future.

Although we trust that you will take immediate action to address this matter, we ask that you provide a written response to this letter no later than 5:00 pm CST Friday May 16, 2025

We look forward to receiving your prompt response to this letter and to resolving this matter expeditiously. This letter is sent without prejudice to any rights or remedies available to our client, all of which are reserved.

I remain available should you wish to discuss this matter in further detail.

Very truly yours,



Drew M. Smith

cc: Avelo, Inc.

# United States of America

## United States Patent and Trademark Office

# AVELO

**Reg. No. 6,910,702**

**Registered Nov. 29, 2022**

**Int. Cl.: 9, 39, 42**

**Service Mark**

**Trademark**

**Principal Register**

Avelo, Inc. (DELAWARE CORPORATION)  
5847 San Felipe Street, Suite 1900  
Houston, TEXAS 77057

CLASS 9: downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for airline passenger transportation and loyalty awards programs for airline passengers; downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for tracking and redeeming loyalty program awards for airline passengers; downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status

FIRST USE 5-10-2021; IN COMMERCE 5-10-2021

CLASS 39: transportation services, namely, transportation of persons by air; airline transportation services; air transportation reservation services, namely, ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status; providing information in the field of airline transportation by means of a global computer network; providing a website featuring information in the field of airline passenger transportation

FIRST USE 5-00-2021; IN COMMERCE 5-00-2021

CLASS 42: Providing temporary use of non-downloadable computer software in the field of airline transportation, namely, software for airline passenger transportation and loyalty awards programs for airline passengers; Providing temporary use of non-downloadable computer software in the field of airline transportation, namely, software for tracking and redeeming loyalty program awards for airline passengers; Providing temporary use of nondownloadable computer software in the field of airline transportation, namely, software for ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status

FIRST USE 4-8-2021; IN COMMERCE 4-8-2021

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR



*Katherine Kelly Vidal*

Director of the United States  
Patent and Trademark Office



# United States of America

## United States Patent and Trademark Office

# AVELO AIRLINES

**Reg. No. 6,680,758**

**Registered Mar. 22, 2022**

**Int. Cl.: 9, 39, 42**

**Service Mark**

**Trademark**

**Principal Register**

AVELO, INC. (DELAWARE CORPORATION)

5847 SAN FELIPE STREET, SUITE 1900

HOUSTON, TEXAS 77057

CLASS 9: downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for airline passenger transportation and loyalty awards programs for airline passengers; downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for tracking and redeeming loyalty program awards for airline passengers; downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status

FIRST USE 4-8-2021; IN COMMERCE 4-8-2021

CLASS 39: transportation services, namely, transportation of persons by air; airline transportation services; air transportation reservation services, namely, ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status; providing information in the field of airline transportation by means of a global computer network

FIRST USE 4-8-2021; IN COMMERCE 4-8-2021

CLASS 42: Providing temporary use of non-downloadable computer software in the field of airline transportation, namely, software for airline passenger transportation and loyalty awards programs for airline passengers; Providing temporary use of non-downloadable computer software in the field of airline transportation, namely, software for tracking and redeeming loyalty program awards for airline passengers; Providing temporary use of nondownloadable computer software in the field of airline transportation, namely, software for ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status; providing a website featuring information in the field of airline passenger transportation

FIRST USE 11-4-2021; IN COMMERCE 11-4-2021

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR



*Diana H. [Signature]*

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No claim is made to the exclusive right to use the following apart from the mark as shown: "AIRLINES"

SER. NO. 90-329,885, FILED 11-19-2020

# United States of America

## United States Patent and Trademark Office



**Reg. No. 6,657,107**

**Registered Mar. 01, 2022**

**Int. Cl.: 9, 39, 42**

**Service Mark**

**Trademark**

**Principal Register**

AVELO, INC. (DELAWARE CORPORATION)  
5847 SAN FELIPE STREET, SUITE 1900  
HOUSTON, TEXAS 77057

CLASS 9: downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for airline passenger transportation and loyalty awards programs for airline passengers; downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for tracking and redeeming loyalty program awards for airline passengers; downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status

FIRST USE 5-10-2021; IN COMMERCE 5-10-2021

CLASS 39: transportation services, namely, transportation of persons by air; airline transportation services; air transportation reservation services, namely, ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status; providing information in the field of airline transportation by means of a global computer network

FIRST USE 5-00-2021; IN COMMERCE 5-00-2021

CLASS 42: providing temporary use of non-downloadable computer software in the field of airline transportation, namely, software for airline passenger transportation and loyalty awards programs for airline passengers; providing temporary use of non-downloadable computer software in the field of airline transportation, namely, software for tracking and redeeming loyalty program awards for airline passengers; providing temporary use of non-downloadable computer software in the field of airline transportation, namely, software for ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status



*Diana H. [Signature]*

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Director of the United States Patent and Trademark Office





FIRST USE 4-8-2021; IN COMMERCE 4-8-2021

The color(s) violet, teal, white, and yellow is/are claimed as a feature of the mark.

The mark consists of three horizontal wishbone shapes, each having symmetrical top and bottom elements and flat ends, with the top wishbone in the color teal overlapping the middle and bottom wishbone and with the middle wishbone in the color white overlapping the bottom wishbone in the color yellow, all of which appearing against a violet background.

SER. NO. 90-547,905, FILED 02-25-2021

# United States of America

## United States Patent and Trademark Office



**Reg. No. 6,513,201**

**Registered Oct. 05, 2021**

**Int. Cl.: 9, 39, 42**

**Service Mark**

**Trademark**

**Principal Register**

AVELO, INC. (DELAWARE CORPORATION)

5847 San Felipe Street, Suite 1900

Houston, TEXAS 77057

CLASS 9: downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for airline passenger transportation and loyalty awards programs for airline passengers; downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for tracking and redeeming loyalty program awards for airline passengers; downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status

FIRST USE 5-10-2021; IN COMMERCE 5-10-2021

CLASS 39: transportation services, namely, transportation of persons by air; airline transportation services; air transportation reservation services, namely, ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status; providing information in the field of airline transportation by means of a global computer network

FIRST USE 5-00-2021; IN COMMERCE 5-00-2021

CLASS 42: Providing temporary use of non-downloadable computer software in the field of airline transportation, namely, software for airline passenger transportation and loyalty awards programs for airline passengers; Providing temporary use of non-downloadable computer software in the field of airline transportation, namely, software for tracking and redeeming loyalty program awards for airline passengers; Providing temporary use of nondownloadable computer software in the field of airline transportation, namely, software for ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status; providing a



*Dan H. Phillips*

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website featuring information in the field of airline passenger transportation

FIRST USE 4-8-2021; IN COMMERCE 4-8-2021

The mark consists of three horizontal wishbone shapes, each having symmetrical top and bottom elements and flat ends, with the top wishbone overlapping the middle and bottom wishbone and with the middle wishbone overlapping the bottom wishbone.

SER. NO. 90-452,829, FILED 01-07-2021

# United States of America

## United States Patent and Trademark Office



**Reg. No. 7,072,450**

**Registered Jun. 06, 2023**

**Int. Cl.: 39**

**Service Mark**

**Principal Register**

Avelo, Inc. (DELAWARE CORPORATION)  
5847 San Felipe Steet, Suite 1900  
Houston, TEXAS 77057

CLASS 39: transportation services, namely, transportation of persons by air; airline transportation services

FIRST USE 5-00-2021; IN COMMERCE 5-00-2021

The color(s) violet, white, silver, teal and yellow is/are claimed as a feature of the mark.

The mark consists of the trade dress of the exterior of a passenger airplane on which the services are rendered, comprising the word "AVELO" in violet against a white background on the anterior portion of an airplane fuselage, with the posterior airplane fuselage and airplane tail, engine, and wingtips in the color violet and the engine featuring a silver ring on the anterior portion. The airplane tail featuring a design consisting of three horizontal wishbone shapes, each having symmetrical top and bottom elements and flat ends, with the top wishbone in the color teal overlapping the middle and bottom wishbone and with the middle wishbone in the color white overlapping the bottom wishbone in the color yellow, all of which appearing against a violet background. The broken lines depicting the outline of the airplane fuselage, engines, wingtips, and tail indicate placement of the mark on the goods and are not part of the mark.

OWNER OF U.S. REG. NO. 6680758, 9054790

SER. NO. 97-349,227, FILED 04-06-2022

*Katherine Kelly Vidal*

Director of the United States  
Patent and Trademark Office



# avelNO!

## Does your vacation support their deportation?

Today more than ever how and who we travel with matters. Your next trip could be supporting the next deportation flight.

Learn more below, or [donate today](#) to help keep air travel accountable

It is a simple question, one you probably never considered. But now, every traveler flying with Avelo must consider the impact of that decision. In early April the carrier announced a deal to operate three aircraft on behalf of DHS/ICE, handling deportation flights from Mesa, AZ to foreign destinations. And the CEO is clear: deportation flights and the carrier's regular passenger flights are closely linked.

**"We realize this is a sensitive and complicated topic. After significant deliberations, we determined this charter flying will provide us with the stability to continue expanding our core scheduled passenger service and keep our more than 1,100 Crewmembers employed for years to come."**

**- Avelo Airlines Founder and CEO Andrew Levy**

Every business makes decisions on who it partners with. Similarly, every consumer must choose which businesses to patronize.

Picking a business that puts profits ahead of humanity is a bad choice.

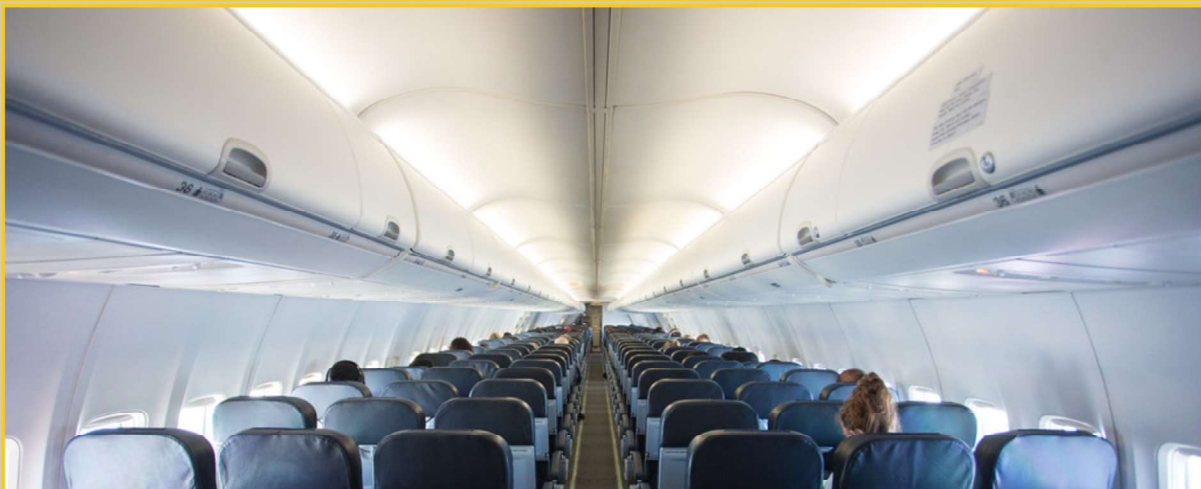
**That's why we're asking you to just say "avelNO!" and not fly with Avelo until it stops operating charters for ICE.**

Our campaign is working hard to get the word out, starting with a billboard near the carrier's main operations at New Haven's Tweed Airport.



Your support will enable us to extend and expand that messaging.

The most important thing you can do is not fly Avelo. And if you're able, [we'd appreciate your support](#) for the avelNO! campaign.





If you'd like to donate more than \$999 [this link can help](#) with that.

avelNO! is a project of the [AvGeek Action Alliance](#)



 AvGeek Action Alliance

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Thank you for supporting our efforts with your donation.  
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